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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/865,962	05/30/97	NIELSEN J	2860-058

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TM02/0129

EXAMINER
LE,Q

ART UNIT	PAPER NUMBER
2153	

DATE MAILED:
01/29/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

	Application No.	Applicant(s)
Advisory Action	08/865,962	Jakob NIELSEN
	Examiner	Group Art Unit
	Quoc-Khanh Le	2153

THE PERIOD FOR RESPONSE: [check only a) or b)]

a) ☒ expires ___3___ months from the mailing date of the final rejection.

b) ☐ expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

☐ Appellant's Brief is due two months from the date of the Notice of Appeal filed on _____ (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on _Dec 27, 2000_ has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:

☐ The proposed amendment(s):

    ☐ will be entered upon filing of a Notice of Appeal and an Appeal Brief.

    ☐ will not be entered because:

        ☐ they raise new issues that would require further consideration and/or search. (See note below).

        ☐ they raise the issue of new matter. (See note below).

        ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.

        ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

    NOTE: _____

    _____

    _____

    ☐ Applicant's response has overcome the following rejection(s):

    _____

☐ Newly proposed or amended claims _____ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.

☒ The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because:
see Attachment
_____

☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

☒ For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):

Claims allowed: _none_

Claims objected to: _none_

Claims rejected: _3-7 and 9-22_

☐ The proposed drawing correction filed on _____ ☐has ☐has not been approved by the Examiner.

☒ Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). ___12___ .

☒ Other _Attachment_

MOUSTAFA M. MEKY
PRIMARY EXAMINER

DETAILED ACTION

1.   This office action is responsive to the Request for Reconsideration under 37 C.F.R. 1.116

files on 12/27/00. Claims 3-7 and 9-22 are pending.

Information Disclosure Statement

2.   The objection to the IDS filed on 5/16/00 in the previous office action is withdraw. The

cited references are considered and entered in the record.

Response to Arguments

3.   Applicant's arguments filed have been fully considered but they are not persuasive.

According to Applicant's arguments, Examiner concentrates his responses to the following points:

A.   Togabi does not teach or suggest allocation of bandwidth based on type of information:

Togabi teaches a data throttling system wherein a station may transmit to or receive from

the shared transmission medium, a media access controller enables data packets of different types

to access the transmission medium with arbitrary priority, and a throttler provides an appropriate

amount of bandwidth to a particular type of data packets in the shared transmission medium

[Abstract, Field of the Invention]. Thus, Togabi teaches the claimed features of the present

invention. Therefore, Applicant contradicted himself when Applicant asserted that "Togabi does

not teach or suggest **allocation of bandwidth based on type of information**" (page 2, lines 9-

10), then "the two systems **allocate bandwidth** in different manners" (page 2, lines 21-22), then

"Togabi simply **prioritizes data** for transmission" [page 4, lines 2-3] (emphasis added).

B.   Togabi does not teach or suggest that the type of information being retrieved includes one

of information in HTML format, information in a style sheet format, information in a GIF image

format and information in a JPEG image format:

Examiner admitted that Togabi does not explicitly disclose that the type of information

includes HTML, style sheet, GIF, JPEG (page 4, lines 4-6). However, Togabi disclose allocating

bandwidth to different types of data, e.g., video or audio data, transaction data [col. 1, lines 33-

34], DVI, MPEG, MPEGII [col. 2, lines 32-35]. It would have been obvious that Togabi could

not explicitly disclose all well-known-in-the-art formats and it would have been obvious too, that

one of ordinary skill in the art is motivated to apply Togabi's teaching with any format, which is

well known in the art for video, audio, and transaction data, in order to make the system more

universal.

C.   Togabi does not teach or suggest a set of priorities based on the speed of user

connections, on which part of the document is being transmitted, on user identities, on stored

indicia indicating importance of the document, on the state of application process:

Togabi does not explicitly teach a set of priorities based on other criterions than types of

data. However, it would have been obvious that one of ordinary skill in the art is motivated to

extend the ranges of criterions for priorities to apply Togabi's system in similar environments.

For example, it is well known that a high paying customer, who is connected to his Internet

Service Provider with a cable, accesses data faster than a low paying customer using a modem. To

support Examiner's assertion of obviousness, in the previous Office Action/Response to

Arguments (paper no. 14, dated 9/27/00, page 4, lines 1-3) Examiner has cited Gotwald (U.S.

patent 5,987,518). Gotwald teaches connections with priorities based on source IP address,

destination address, data types, connection types [col. 4, line 55 to col. 5, line 21].

D.   Establishing a prima facie:

In response to applicant's argument that there is no suggestion to modify an applied

reference and/or to combine applied references to arrive to the claimed invention, Examiner has

cited some references (Vaid et al., U.S. patent 6,047,322; Nielsen, U.S. patent 5,826,031;

Gotwald, U.S. patent 5,987,518) in the previous Office Action to prove the obviousness of the

rejection. Vaid teaches a system managing bandwidth (see abstract), wherein the data types are

MIME, HTML, JPEG, etc. [col.6, lines 1-10; col. 7, lines 30-40]. Nielsen teaches prioritized

downloading of embedded Web objects [Summary of the invention]. Gotwald teaches a system

for communicating Internet protocol data, where a prioritization scheme is provided [Abstract,

col. 4, line 55 to col. 5, line 21]. All above references and Togabi handle data communications

with a set of priorities. Therefore, Examiner is in the opinion that suggestions, either in the

references themselves or in the knowledge generally available to one of ordinary skill in the art,

are obvious enough to arrive to the claimed invention.

For all above reasons, the rejection of claims 3-7 and 9-22 are maintained.

Q.-K. Le

AU 2153

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